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| EXAMINER |
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JANVIER, JEAN D

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3688

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11/27/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                                      |   |  |
|------------------------------|--------------------------------------|---|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>09/492,725 | <b>Applicant(s)</b><br>ARSENAULT ET AL. |  |
|                              | <b>Examiner</b><br>JEAN JANVIER      | <b>Art Unit</b><br>3688                 |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 18-34 and 41-67 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18-34 and 41-47 and 48-67 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

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### **Re-Open Prosecution**

In response to the Pre-Brief Conference, prosecution is herein being re-opened and thus, the finality of the last Office Action has been withdrawn.

### **Response to Applicant's Arguments**

Applicant's arguments with respect to the claimed invention have been considered, but are moot in view of the new ground(s) of rejection. In other words, the Applicant's arguments are fully addressed in the present Office Action.

### **DETAILED ACTION**

#### *Specification*

#### **Status of the claims**

Claims 18-34 and 41-47 and 48-67 are currently pending in the Instant Application.

#### **Examiner's Notes**

**Further**, regarding claim 18, 24, 41, 48 and 56, “**wherein the link associates the advertisement object with a plurality of image objects** corresponding to the advertisement object” is an Intended Use” recitation. Indeed, “the link”, **instead of “associating an advertisement object with a plurality of image objects”**, can simply “**specify a storage location storing a plurality of image objects corresponding to the advertisement object**”.

The above limitations are similar in nature. The specific use of the link here is not a matter of

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patentability. The test here is whether or not the prior art structure is capable of performing the functions recited in the claims. In the affirmative, the prior art is said to be relevant or reads on the claimed invention. The prior art recorded or used in this Action is capable of performing the recited tasks or functions and thus, the prior art reads on the claimed invention.

**Moreover, technically speaking,** each played and displayed content, including text, audio and video, uses (computing) resources or imposes a different (unique) demand or processing capability (disk space, RAM, multimedia capability, video card capability, display resolution, etc.) that is to be satisfied by the host or system or receiver (receiving unit).

**In addition,** in order to select one of the plurality of image objects and discard the remaining of the image objects, the plurality of image objects must first be transmitted to the receiver for consideration, as an ordinary skilled artisan would have concluded at the time of the invention.

As featured in the claims or at least in claims 18, 24, 41, 48 and 56, it is unclear whether the plurality of image objects, corresponding to the advertisement object, represent a single physical object (e.g. FORD 150 model) having different formats (e.g. JPEG, MPEG, GIF, etc.) and that the receiver is configured to select the format that it can support, while discarding or rejecting the rest, or the plurality of image objects are related to a plurality of different physical entities or objects having various formats (e.g. JPEG, MPEG, GIF, etc.) and the receiver is adapted to select an image object, from the plurality of image objects, having the format that it can support, while discarding or rejecting the non-supported or incompatible image objects having unsupported format. There may be a problem in the latter scenario, wherein the

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advertisement object is related to a plurality of image objects associated with a plurality of different physical entities or objects having various formats (e.g. J, MPEG, GIF, etc.) that must be displayed in order to fully complete the playing or displaying of the advertisement.

Here, the amended claims recite that the advertisement object is linked to a plurality of image objects, wherein each of the image objects requires a different processing capability to be satisfied or rendered by a receiver (compatibility issue). Although it is understood that a single receiver can be compatible to at least one of or to all the image objects or has the capability to display the at least one of or all the image objects, however, it is unclear how a single receiver can satisfy all different processing capabilities (MPEG file, JPEG file, Macintosh file, etc.) required by the image objects. At best, the claim should have recited that the receiver is capable to display at least one of the image objects. Finally, it appears that only one compatible image object will be displayed together with the advertisement on the receiver screen.

### **Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various

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claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

**Claims 18-23, 24, 32-34, 41-47, 56, 62, 64 and 67 are rejected under 35 USC 103(a) as being unpatentable over Gerace, WO 97/41673 in view of Barrett, USP 6,023,727.**

As per claims **18-23, 24, 32-34, 41-47, 56, 62, 64 and 67**, Gerace discloses a system for displaying advertisements to a user, over the Internet, based on the user's preferences (interests, habits or psychographic or behavioral profile or specification information) **and demographic information**. The user's psychographic profile and demographic profile are collected from the user during a registration or an enrollment or sign-up process. Thereafter, the psychographic profile is constantly refined using the user's monitored viewing habits and computer activity. Further, content of categories of interest **and display format** in each category are included in the psychographic profile as a result of the user's viewing or browsing activities (specification information identifying the type of information item the user is interested in). Consequently, targeted advertisements are appropriately displayed to the selected user via his computer screen (subscriber's receiver screen), based on the user's psychographic and demographic profile, when he logs into the system to request a primary content and wherein **these advertisements are constantly being modified** in accordance with the user's interaction or viewing activities (viewing of agate information) or psychographic or behavioral profiles.

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(p. 33: 31 to p. 34: 9; p. 26: 7-20; p. 18: 22 top. 19: 4; p. 30: 23 to p.31:8) and  
(See abstract; figs. 3B-3F; p. 3: 2 to p. 5: 19; p. 13: 1-22; p. 39: 22 to p. 45: 7).

Furthermore, Gerace discloses that each advertisement from an advertiser has one or ad packages **or ad objects**. In each ad package or **ad object 33b**, there is shown a start and end dates and times (schedule of display) and pricing for the ad package or ad object. **Each ad belongs to a series of ads** (ad listing). For serially displayed ads, the maximum number of views in a series to be displayed in a particular sequence, per user and per day, is also indicated. For instance, **ad object 33d of fig. 5D indicates a series ID and a series sequence (i.e. the ordering of the ad in a series) while referencing to an ad series object 33c** of fig. 5C, **which shows in turn the intended targeted demographic profiles**, products and services offered by the sponsor, etc. Moreover, the system compiles statistical reports that show the success or the failure of a particular ad campaign. (fig. 5A-5D; page 22: 36 to page 24: 15).

**In general**, specific to desired ads, each sponsor or advertiser or merchant has one or more **Ad Series Objects 33c** (FIG. 5c). **An Ad Series Object 33c** (FIG. 5c) provides an indication of whether a given advertisement is singly or serially displayed (groups of ads), the category of the information, and the demographic group of users (configuration data) pre-requested by the sponsor to be shown that advertisement. In a preferred embodiment, the sponsor specifies in Ad Series Object 33c the required and/or preferred psychographic and/or demographic criteria and relative importance (e.g., weight) with respect to each criterion (configuration). Further, the sponsor specifies in Ad Series Object 33c a minimum total weight

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of criteria (local condition) to be met by a user to qualify the user to view the advertisement or ad series (one or more groups of ads). Also **Ad Series Object 33c includes a reference or a link to an Ad Package Object 33b (via an ad package identification or Ad Package ID or Ad Object 33b of fig. 5B; one object is linked to another)**, the hour of the day in which the ad/ad series is to start and end, the days of the week on which the ad/ad series is to be displayed, and the beginning and ending dates and times of the ad/ad series (**schedule related to a display of one or more series of ads**). Also for serially displayed advertisements, Ad Series Object 33c indicates the maximum number of views in a series to be displayed per user and per user per day. Following a display of ads to the targeted group, a Detailed Package Report provides, **to the sponsor, information on individual ad packages, including showing the ads included in the package with video and audio portions intact (The ad object having an associated “network” link identifying at least one compatible image object and audio object whose related content is being called or retrieved from a designated location during execution of a module/software by a processor, corresponding to the user’s or subscriber’s receiver or computer 37b of fig. 3A, to display the at least one compatible image on the user’s interface 37c or output an audible signal thereat-figs 3A-3G)**. The demographic profiling requested and demographic breakdown of success with respect to a control group are also provided in the Detailed Package Report. Also the number of hits and click- throughs purchased and achieved are designated in the Detailed Package Report.

Each ad forms a corresponding Ad Object 33d as illustrated in FIG. 5d. For a given advertisement, Ad Object 33d indicates to which series the advertisement belongs. To

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effectuate this, the Ad Object 33d indicates a series ID which references an Ad Series Object 33c, and indicates a series sequence (i.e., the ordering of the ads in a series or the priority of display of ads in a series). Ad Object 33d also includes the starting and ending time for display of the ad each day (scheduling object). **Ad Object 33d also provides references to graphic references (the ad object having a “network” link linking the ad object to compatible image objects or image files), sound, and multimedia (object) portions of an advertisement. A text-only format of an advertisement is used for users receiving messages on their own E-mail service or on a text-only browser (e.g., Links systems for VAX/VMS operating systems) rather than through the messaging feature of program 31; in other words, the ad is displayed to a user in accordance with a local condition or display interface capability.**

Here, Ad object 33d of fig. 5D refers or calls graphic references (or image objects). Ad Series Object 33c of fig. 5C linked via package ID to Ad Package 33b of fig. 5B, which calls via Sponsor ID Sponsor Object 33a of fig. 5A (Sponsor directory comprising a plurality of files). When a view op occurs or when a user having a profile, matching the advertiser's specifications, visits the system or system web site, program 31 retrieves from memory and displays the related advertisements, based on the user's computer or subscriber's receiver local conditions/capabilities (e.g. the user's interface capability, browser type, audio capability, video capability, etc.), by executing Ad Object 33d of fig. 5D, which calls, among other things, therefrom graphic references or image objects, Ad Series Object 33c, which in turn refers to Ad Package Object 33b, which refers to Ad Sponsor Object 33a, which in turn calls via User ID User Object 37a of fig. 3B for completion. This is well established in the area of Object

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Oriented programming (e.g. C language). This data structure model is widely used in organizing directories and files stored in a Hard disk drive under MS DOS and MS Windows Operating or Interface. Except for the display of the advertisement and related images, texts, sounds, etc., the execution or operation is transparent to the user.

**See figs. 5A-5D; page 22: 25 to page 24: 15.**

Further, a Demographic Response Rates Report is generated where all ad packages of a sponsor or selected ones are compared. In particular, the ad success by the sponsor-targeted demographic groups is compared. A reporting subroutine 41 of program 31 also calculates a regression on the targeted demographic groups for the ads, and the results of the regression calculation are used to suggest other demographic characteristics that are important factors in the number of click-throughs and/or number of purchases (Other demographic groups, following the reporting, may be considered in order to achieve the number of click-throughs and/or generated purchased). The advertiser may also run a complete regression report for all or certain ad packages.

Additionally, appropriate hardware and software used in the system are disclosed on page 6: 22 to page 12: 36 and figs. 1-4. For example, the present system uses a software program or module 31 operated on and connected through a server 27 to the Internet for communication among the various networks 19 and/or processors 11, 13, 15, 17 of fig. 1 and other end users connected through respective servers 25. In the preferred embodiment, the server 27 is a Digital Equipment Corp. (DEC) Alpha server cluster (e.g., 2400-8000 Series), or a multiplicity of similar such servers. Server 27 runs Oracle 2.0 Web server as HyperText

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Transfer Protocol (HTTP) server software to support operation of present system program 31 (p. 6: 22-32). Also for each user, there are a User Computer Object 37b and a User Interface Object 37c (fig. 3C). For each user's computer, User Computer Object (user's subscriber) 37b provides an indication of the limitations and capabilities of the user's computer system. For instance, User Computer Objects 37b lists whether the user's system provides audio and/or video display, and what Web browser software is utilized by the user's system (User's interface sophisticated level and/or local condition is used in determining which advertisement is to be displayed to the user and in what format, i.e. image/graphics', audio, text or a combination thereof, thereby avoiding any incompatibility issue). Here, it is further understood that an ad is displayed to the user based on a local condition such as a time of display as read from the user's computer (station) local clock). An outline of the table/data set of a User Computer Object 37b in the preferred embodiment is illustrated in FIG. 3c (p. 11: 10 to p. 12: 2). In short, the subscriber's receiver or user's computer has appropriate Hardware and software, including a local browser, stored on a local memory or Hard disk and operable or adapted to receive from the system/server at least one ad (object) having one or more associated compatible image/graphics links or audio links and display on the user's interface the received ad (in the form of an image, audio signal or text or a combination thereof) based on the user's computer capability (local conditions).

In the preferred embodiment, program 31 is implemented as an object oriented program as discussed above with reference to FIGS. 3a through 5b. Each object is formed of data and subroutines (methods) for acting on the data. The data is preferably stored in tables

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and each table is formed of a multiplicity of records or fields of information. The information held in a record in respective tables of the objects is illustrated in FIGS. 3b through 5b and discussed above. It is understood, however, that other program means, techniques, data structures and program designs for system module 31 are suitable (p. 10: 4-18).

(Page 4: 9-21; page 5: 10-19; page 9: 26 to page 10: 3; page 25: 1-20; page 28: 25 to page 29: 12; **page 29: 13-34**).

Additionally, an advertiser can create a second (new) advertising package (Package Object 33b), subsequent to creating a first Ad Package Object 33b, the advertiser submits the relevant data including graphics or video or image to the system. In response, program 31 creates a new Ad Package Object 33b and links it to the company's existing Sponsor Object 33a. From the data entered or submitted by the advertiser or sponsor into a form, main routine 39 (second software module among a plurality of modules used in the execution of the tasks disclosed herein) completes the corresponding Ad Package Object 33b, Ad Series Object 33c and Ad Object 33d of figs. 5B, 5C and 5D respectively. In turn, program 31 displays a price quote for running the ad and the sponsor-user clicks on the "accept" button. This advertisement package becomes available as soon as the sponsor-user has clicked on the "approved" button. And the new or second ad package is used to update a database file storing the advertiser's advertising data or to simply replace an exiting (old version) Ad Package Object 33b (p. 36: 31 to p. 37: 31).

In order to achieve rapid and direct benefits from the performance report or detailed reporting of program 31, program 31 allows the sponsor or advertiser to enter new

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advertising contracts online in response to customers' reactions. For instance, with respect to reporting, if the reports of program 31 show that customers respond to still advertisements more often than moving ones, bright colors more often than darker ones, graphics rather than text then large text rather than small, detailed text or square advertisements rather than bar style ones, such data are relayed or conveyed to the sponsors/advertisers for further marketing analysis.

Furthermore, if a sponsor recognizes that, for example, 25-35 year-old women tend to purchase frequently and respond to their still, forest green colored advertisements most often, then program 31 enables associated sponsors to place that type of ad in front of the subject target market segment in real-time during a reporting cycle. Thus, program 31 enables updating of the Sponsor and Ad Objects 33 during a reporting cycle (that type of ads becomes a high priority and therefore replaces stored or existing (or similar) low priority ads; in other words, the Ad Objects will be updated-p. 38: 34 to p. 39: 20).

**In short, as featured above (with respect to at least claims 18, 24, 41, 48 and 56), Gerace discloses a system comprising, inter alia, a receiver or user's device useful at the user's or subscriber's site, wherein the receiver has a default processor (CPU) and a memory (e.g. Hard disk drive) for storing one or more objects or modules (software) which, when executed by the processor, cause the receiver to receive an advertisement object (advertisement) having at least one link to or coupled to a plurality of image objects or video components (graphics, video clips, images) useful in playing or displaying the advertisement (object) along with audio and/or text component, based**

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on the sophistication level or capabilities of the receiver, wherein the receiver is adapted to display the content of the advertisement or advertisement object, i.e. text, audio and/or one or more linked video components or one or more associated image objects transmitted to the receiver (for display selection), wherein the receiver is configured to display text, audio or video components (or image objects) having a format compatible with the receiver or based on the receiver sophistication level or capabilities as indicated by computer object 37b or a combination thereof, while ignoring or rejecting or discarding objects (text, audio or video components/image objects) having format incompatible with the receiver (fig. 3C and 5D; Page 9: 13-25 and page 11: 10-19).

Finally, Gerace discloses that each ad forms a corresponding Ad Object 33d as illustrated in FIG. 5d. For a given advertisement Ad Object 33d indicates to which series the advertisement belongs. To effectuate this, the Ad Object 33d indicates a series ID, which references an Ad Series Object 33c and indicates a series sequence (i.e., the ordering of the ads in a series). Ad Object 33d also includes the starting and ending time for display of the ad each day. Ad Object 33d also provides references to graphic, sound, and multimedia portions of an advertisement. A text-only format of an advertisement is used for users receiving messages on their own E-mail service or on a text-only browser (e.g., Links systems for VAX/VMS operating systems) rather than through the messaging feature of program 31 (See page 24: 1-15).

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As per claims 18, 24, 41, 48 and 56, although Gerace discloses that the content of an advertisement (object), having corresponding links or references to text, graphic and/or audio components, is played or displayed at the subscriber's site using at least one graphic/video component, one audio clip and/or text or a combination thereof based on the sophistication level or capabilities of a receiver at the subscriber's or user's site (i.e. compatibility issue-fig. 3C and 5D; Page 9: 13-25 and page 11: 10-19; page 24: 1-15), **however, Gerace does not explicitly mention that the user's/subscriber's receiver (computer) locally selects for playing or displaying thereon one video component or image objects, related to at least one advertisement, from a plurality of transmitted video components/image objects associated with the advertisement (object).**

However, **Barrett discloses that a** computer receives at least one file or image file (software), from an external source, designed to reprogram a read-only memory or ROM (such as a BIOS). A processor coupled to the computer is configured to determine whether or not the received file is compatible with the ROM before performing the reprogramming function. Needless to say here that the at least one received file is discarded or rejected if it is incompatible and that only a compatible file or image file will be retained (See abstract and at least the summary section).

Finally, linking or associating an advertisement object or advertisement file (or simply an advertisement) to a plurality of image objects (graphics or video clips or pieces), instead of one image object or video clip, is a matter of desires, which does not direct impact

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the utility or functionality of the process by which the system operates to display an advertisement (object) including at least one related image object (video clip).

Therefore, it would have been obvious to an ordinary skilled artisan, at the time of the invention, to incorporate the above disclosure into the system of Gerace so as to **enable the user's/subscriber's receiver, instead of a server, to locally receive at the receiver one or more one files or file images (image objects) and select for playing or displaying thereon at least one video component or image object, related to at least one advertisement (object), from the one or more transmitted video components/image objects (files) upon determining that the selected image object (file image) is compatible to the receiver,** thereby saving important resources or reducing bandwidth usage at the server level, while preventing bottleneck, often triggered by heavy traffic, that often renders a network sluggish by enabling the subscriber's system or receiver, instead of a server, to locally select at least one audio, text or video/image object or component or a combination thereof, from a plurality of objects or components, to be played or displayed as the component of an advertising or advertisement object **upon determining that the** audio, text or video/image object or component format (file extension) is **compatible to the receiver (based on the receiver sophistication) and while preventing the receiver or user's system from crashing or freezing upon running or executing by the receiver an** audio, text or video/image object or component having an incompatible or non-supported format.

**Claims 18-34 and 41-67 are rejected under 35 U.S.C. 103(a) as being unpatentable**

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**over Hite et al., US Patent 5,774, 170A in view of Barrett, USP 6,023, 727.**

As per claim 18-34 and 41-67, Hite et al. disclose an enhanced television (radio) advertising method and/or system by targeting, delivering and displaying advertisements within specified programming, during program breaks, in pre-determined households having specific and addressable units while preventing advertisements from being displayed in other households (See abstract). The system comprising appropriate hardware and software (first software, second software, third software, etc.) wherein an Ad Administration Facility having stored therein advertisements and programs for analysis and classification and the results of this analysis and classification are stored in databases. In addition, advertisements or commercials are received from agencies that created them and processed them as necessary for use in the system. These processed commercials (first group or first source of advertisements having related objects/graphics/images and/or text), having associated CID codes **(each advertisement having a commercials ID or data element indicating whether or not the advertisement, when encoded or inserted/embedded on a transmitted broadcast or data stream or programming, should be displayed at a particular location),** are constructed from information or results stored in databases associated with the Administration Facility 100 of fig. 1 and conveyed or transmitted to Ad **Transmission Facility 200, which combines the processed commercials and CID codes (data elements) with programming and transmits the result to a plurality of Media Origination Facility 300 for delivery to the display site 400 (reception site(s) or subscriber site(s)) based on local conditions (the viewer's interest) available at the subscriber's site (location).**

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The Media Origination Facility 300 also receives programming and commercials from other sources (second group of commercials) and creates some programming and commercials in its own facilities wherein these commercials and programming are scheduled to be transmitted and displayed at the viewer's unit based on location condition (the viewer's demographic and psychographic profile). **Further, a viewer is targeted with a list of advertisements (advertising objects) from the first group or second group based on his profile (local condition) and the advertisements will be displayed in a correct sequence according to a sequencing code store at the point of viewing (subscriber's site) (fig. 1; col. 8: 63 to col. 9: 42; col. 3: 65 to col. 4: 2; col. 4: 45-51; col. 8: 29-38).**

**Moreover, Hite discloses, in general, a system to display advertisements or advertising objects, stored on a set top box, on a viewer's unit or TV set based on the viewer's profile when a break occurs during the broadcast of a TV show or a programming. The displayed advertisements comprising text and/or audio and/or video (linked image objects or graphical representation) formats. Additionally, advertisements (advertising objects) are often associated with objects, such as graphical images, stored on computer readable media (See abstract; col. 3: 16 to col. 8: 43).**

Further, Hite discloses a system wherein a viewer is targeted with a list of advertisements based on his profile and wherein the advertisements will be displayed in a correct sequence according to a sequencing code stored at the point of viewing (viewer's set top box). Indeed, a sequencing code would be stored at the point of display. It would be used to compute a new CID (commercial ID) code for a subsequent commercial or advertisement object. **By having a sequential CID code, viewer would see a series or list of commercials in correct order (col.**

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4: 45-51).

See col. 3: 16 to col. 8: 43 for more details.

Hite also discloses an enhanced television (radio) advertising method and/or system by targeting, delivering and displaying advertisements within specified programming (transmitted data stream), during program breaks, in pre-determined households having specific and addressable units (transmitting **(same)** advertisements to a plurality of subscribers' receivers), while preventing advertisements from being displayed in other households (See abstract). A suitable process is used to target prospective viewers of a set of advertisements using database search and list selection procedures. The result of this process is a set of appropriate CID codes for the prospective viewers. These CID codes (local conditions) are transmitted, for instance, to a viewing device or receiver's unit (Set top box) where it is stored and later used to match one or more CID codes (data elements) transmitted with advertisements embedded in a programming (data stream), thereby determining if the embedded advertisement is to be stored, at least temporarily in the memory (RAM) of the set top box or subscriber's site, and subsequently displayed at the subscriber's/viewer's site when a break in the data stream or transmitted programming/broadcast occurs. When a match is found between the locally stored CID and the CID (commercial ID) transmitted with the advertisement or commercial, the commercial or advertisement is then presented to the viewer. If there is no match, then the inserted commercial is ignored or discarded **(determining if a CID code or data element transmitted within an advertisement embedded in a data stream/broadcast is compatible to a local condition or locally stored CID code, representing the viewer's interest or preference, before temporarily storing the advertisement in the memory (cache memory) and displaying it**

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**during a triggering event or programming or data stream break). In addition to the CID match, the display of the advertisement is dependent on whether the frequency of display, another local condition locally stored in the memory of then set top box (STB) or subscriber's unit, has reached its threshold limit (Col. 3: 65 to col. 4: 33).**

**The system is further adapted to display advertisements stored on the set-top box (viewer's unit or TV set or receiver's unit) based on the viewer's profile (local conditions) when a break occurs during the broadcast of a TV show or a programming (transmitted data stream). The displayed advertisements comprising text and/or audio and/or video (image objects or graphical representation) formats. (See abstract; col. 3: 16 to col. 8: 43).**

Hite also discloses an enhanced television (radio) advertising method and/or system by targeting, delivering and displaying advertisements within specified programming, during program breaks, in pre-determined households having specific and addressable units (subscribers' sites) while preventing advertisements from being displayed in other households (See abstract). When a match is found between the locally stored CID (local condition) and the CID (commercial ID) or data element transmitted with an advertisement or commercial embedded in the broadcast (data stream), the commercial is then presented to the viewer (storing at a subscriber's site a CID or code or a local condition and comparing the locally stored CID to a CID or data element embedded in an advertisement inserted or encoded in a transmitted data stream or broadcast or programming and retrieving from memory (at least volatile or temporary memory) the advertisement (or linked object/image/graphic and/or text related to the advertisement) and the advertisement content (object) at the subscriber when there is a match between the locally stored CID and the CID or data element embedded in the advertisement

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inserted in the transmitted data stream or broadcast and when the frequency of display corresponding to the said advertisement has not reached its maximum threshold when a break **occurs in the broadcast**). If there is no match, the commercial is ignored and not displayed (discarded) and a default advertisement in the batch of locally stored advertisements having a low priority is considered unless it is replaced with a higher priority commercial (col. 3: 65 to col. 4: 18).

Moreover, an unconditional preemptable commercial may be subject to substitution or replacement whenever other higher priority commercials are available (col. 3: 55-57; col. 8: 29-38). Advertisements are transmitted and stored locally in a viewer's unit along with suitable CIDs to be subsequently presented to the viewer. A broadcast (transmitted data stream) with a break to present a targeted commercial may then be transmitted with codes or CIDs in the break point. If there is a match between the stored CIDs and the transmitted CIDs, an appropriate commercial is presented, perhaps more than once. If a certification or registration code is included, that code is returned upstream to the signal origination site when commercials are successfully presented. **The presented or used commercial will then be replaced with another commercial or a new commercial, which is just received and stored in the viewer's unit, thereby updating the** local database or local storage medium associated with the viewer's unit and especially if the newly received advertisement has similar content as the previously viewed advertisement. Further, when there is no match between the stored CID and the received CID associated with the commercial break embedded in the transmitted program, no commercial will be displayed. However, there is always a default advertisement to be displayed. In the case of multiple matches, a prioritization programming will be employed to determine which commercials to be

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displayed and which ones to ignore. It is to be understood that each advertisement stored in the system to be displayed at the appropriate time has an expiration date and at the end of the expiration date, the advertisement will no longer to be displayed. In the end, the current system has the necessary hardware and software to replace a previously viewed advertisement with a newly transmitted advertisement, to ignore inappropriate advertisement and display a default one having a low priority, to select the advertisement having the highest priority in the case of multiple matches (col. 5: 39 to col. 8: 38).

**Additionally, and more importantly, Hite discloses, in a first preferred embodiment of the present system and process, that an individually addressable digital recording device (RD) or subscriber's receiver with a unique address is installed at the display site in a television or radio receiver, VCR, display device or set-top-box or modular decoder associated with the media provider (cable, DBS, telephone, etc.). One or more commercial identifier (CID) codes (local conditions) are transmitted to and recorded by the RD (local memory or cache) of the subscriber's site or viewer's unit in advance of the commercial broadcast (advertisement transmission). As herein described, these codes will be used to "tell" the home display or viewer's unit which upcoming commercials/advertisements or (advertising objects) to store for subsequent play or display at the subscriber's site and which advertisements to ignore or discard (because they are incompatible) (Col. 5: 40-50; col. 6: 10-59).**

**In a second preferred embodiment of the present system and process, an individually addressable digital recording device (RD) or memory with a unique address (location address) is installed at the display site (subscriber site) in the television receiver,**

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**VCR, display device set-top-box or modular decoder associated with the video provider (cable, DBS, telephone, etc.). CID codes (local conditions) chosen for a particular display site (consumer site) are transmitted to and stored in an in-home storage at the display site (storing local conditions in the memory at the subscriber site). Commercials (advertisement objects) are subsequently transmitted to the in-home storage device with sufficient capacity to hold or store one or more commercials (advertisement objects), coupled to related image objects or image links, graphics or video, prior to display (transmitting and receiving advertisements at the subscriber site to be recorded in the memory or storage means for later retrieval and display based on some preset criteria or local conditions).**

**The commercials/advertisements (advertisement objects) could be in analog form, but it is more efficient of transmission and storage capacity to digitize and compress the commercials prior to transmission and storage at the subscriber site. Attached to each commercial are (CID) codes indicating the conditions and rules (local conditions), e.g., date, day-part, network, program context, etc. required to display the commercial(s),**

**The codes (data elements) of the commercials transmitted to or received at the subscriber site are first compared to the codes previously stored in local memory or storage means (RD) at the subscriber site. The commercial or advertisement transmitted to the subscriber site or display unit that is found to match a previous CID code in the local memory is then stored in the storage means (local memory) RD at the display site (subscriber) for subsequent retrieval and display. If there is no match, then the incoming commercials or advertisements (advertising objects) will be ignored or discarded for being incompatible or not suitable for the local site or subscriber site/display unit. Note that the**

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**CIDs (CID codes) and display rules would be stored in a storage known as an Ad Queue in the commercial processor (local memory) at the display unit or subscriber site. See col. 6: 60 to col. 7: 14; col. 7: 15-50.**

**Commercial time or spots when addressable ads (advertisement objects) can be displayed will have unique identifier codes (CIDs). These codes will be part of the conditions required for displaying the addressable spots. These eligibility codes could be applied, i.e., transmitted by the network or locally available in local-avail spots. The program delivery system would broadcast, within a programming, a default-commercial in the spot eligible for the locally stored addressable ad. This spot would air in a home or display that was not targeted for an addressable ad in that time period. The commercial processor CP in the home (subscriber's receiver) would look for the CID in each Incoming (default) commercial at a break during a broadcast program. If there was a CID at a break, then the processor would apply the display rules for the addressable ads locally stored in the subscriber's receiver. If there was an ad to display, then the CP would substitute the locally stored addressed ad for the ad in the broadcast and eliminate or discard it from the ad queue as necessary (COL. 7: 16-30).**

**Here, predetermined codes are transmitted to the display site and stored therein; commercials are then sequentially transmitted to the display site prior to the time of their intended use. Appropriate storage is provided at the display site to store one or more of the commercials selected by matching the commercial's CID with that CID determined as appropriate for the display site. The broadcast with a break for a target commercial may then be transmitted with codes in the break. If a match is found and only one commercial is**

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stored, it may be displayed one or more times, depending on whether a frequency code is included. If a registration or certification code is included, that code is returned upstream to the signal origination site when commercials successfully play. The commercial will then be replaced with another (update). If storage for multiple commercials is provided, they are downloaded and used appropriately (col. 7: 35-51).

In general, processed commercials are conveyed by electrical and/or optical connection 108 to a Recording Device 110 of fig. 2 for later retrieval and playback at a suitable time in the Processed Commercials Playback Device 146 of fig. 2. Such recording and playback devices for analog or digital video and/or audio segments are well known in the industry (col. 10: 11-16). See col. 9: 43 to col. 10: 32.

In summary, in the second preferred embodiment, predetermined codes are transmitted to the display site/subscriber site and stored therein. Thereafter, commercials or advertisements (advertising objects) are then sequentially transmitted to the display site prior to the time of their intended use or display. Appropriate storage is provided at the display site to store one or more of the commercials (a first group of commercials/advertisements) selected by matching a commercial's CID with a locally stored CID. Through this process, a first group of advertisements can be generated and stored locally for later retrieval and display. Further, a broadcast with a break for a target commercial may be transmitted with codes in the break, which triggers the retrieval and display of the stored or the first group of advertisements based on a sequence or based on a CID match between a break CID or code and a stored commercial/advertisement CID or code. For instance, if a match is found, between a code in the break and a stored

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**commercial code or only one related commercial is stored, then the commercial is displayed one or more times, depending on whether a frequency code is included. If a registration or certification code is included, then that code is returned upstream to the signal origination site or transmission site when commercials are successfully played. The commercial will then be replaced with another. If storage for multiple commercials is provided, they are downloaded and used appropriately (Col. 7: 35-50; col. 9: 16-20; col. 4: 46-51).**

**(The latter reads on the steps of locally storing in memory at the subscriber site local conditions or CID codes, i.e. sophistication information, compatibility information, location/address information, receiving at the subscriber site advertisements/advertising objects, having linked audio, text, images, graphics components or linked image objects, transmitted from a transmission site and temporarily stored the received advertisements in RAM or cache memory at the subscriber site, wherein the received advertisements having associated CID codes or data elements embedded therewithin and wherein one or more selected received advertisements (advertising objects), forming a first group, are permanently stored in the memory at the subscriber site when there is a match between one or more previously and locally stored CIDs or local conditions and one or more CID codes or data elements inserted in the received advertisements (advertising objects) and the remaining of the transmitted/received advertisements are ignored or discarded for being incompatible or not suitable for the subscriber site and finally displaying the locally stored advertisements or first group of advertisements at the subscriber site when a break or commercial spot, having an appropriate CID code, occurs within a programming or**

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**broadcast/data stream played or displayed at the subscriber site or display unit according to a certain sequence).**

As per claims 18, 24, 41, 48 and 56, although Hite discloses that a receiver at a subscriber's site is configured to play/display, during a break, an advertisement transmitted within a broadcast or TV program based at least on a local condition stored in the memory of the receiver or adapted to receive a plurality of advertisements transmitted over a network and to select and store in memory, for later retrieval and play/display, one or more advertisements from the plurality of transmitted advertisements based on local conditions recorded in the memory of the receiver (locally selecting by the receiver, for storage and later retrieval and play/display, one or more transmitted advertisements based on local condition or recorded CID codes-Col. 5: 40-50 and col. 6: 10-59), however, **Hite does not explicitly mention that the user's/subscriber's receiver locally selects for playing or displaying thereon one video component or image object, related to at least one advertisement, from a plurality of transmitted video components/image objects associated with the advertisement.**

However, **Barrett discloses that a computer receives at least one file or image file (software), from an external source, designed to reprogram a read-only memory or ROM (such as a BIOS). A processor coupled to the computer is configured to determine whether or not the received file is compatible with the ROM before performing the reprogramming function.**

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Needless to say here that the at least one received file is discarded or rejected if it is incompatible and that only a compatible file or image file will be retained (See abstract and at least the summary section).

Finally, linking or associating an advertisement object or advertisement file (or simply an advertisement) to a plurality of image objects (graphics or video clips or pieces), instead of one image object or video clip, is a matter of desires, which does not direct impact the utility or functionality of the process by which the system operates to display an advertisement (object) including at least one related image object (video clip).

Therefore, it would have been obvious to an ordinary skilled artisan, at the time of the invention, to incorporate the above disclosure into the system of Hite so as to **enable the user's/subscriber's receiver, instead of a server, to locally receive one or more files or image objects and select for storage, in the memory of the receiver, for later play/display thereon at least one video component, file (image) or image object, related to at least one advertisement (object), from the one or more transmitted video components/image objects associated with the advertisement,** thereby saving important resources, such as disk space in the receiver by storing therein only compatible images or objects related to transmitted advertisements, or reducing bandwidth usage at the server level, while preventing bottleneck, often triggered by heavy traffic, that often renders a network sluggish by enabling the subscriber's system or receiver, instead of a server, to locally select at least one audio, text or video/image object or component or a combination thereof, from a plurality of objects or components, thereby saving important resources or reducing

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bandwidth usage at the server level, while preventing bottleneck, often triggered by heavy traffic, that often renders a network sluggish by enabling the subscriber's system or receiver, instead of a server, to locally select at least one audio, text or video/image object or component or a combination thereof, from a plurality of transmitted objects or components, to be stored in the memory of the receiver for later play/display as the component of the advertising or transmitted advertisement object **upon determining that the** audio, text or video/image object or component format (file extension) is **compatible to the receiver (based on the receiver sophistication) and while preventing the receiver or user's system from crashing or freezing upon running or executing by the receiver an** audio, text or video/image object or component having an incompatible or non-supported format.

### Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure..

**USP 5,983,242** discloses a second version of an electronic file developed after the first version, a method comprising the steps of: setting a backwards compatibility property in a file format of a file saved by the first version; causing the second version to determine whether the backwards compatibility property is activated when opening the file; and if so, then causing the second version to respond to the activated backwards compatibility property so that the file is opened safely by the second version in such a manner that backwards compatibility is maintained by: checking the file for one or more features that are not supported by the second version, and opening the file with the features disabled.

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**USP 2002/0066071** discloses that multiple-tier program development environment further includes a communication emulator 220 for emulating communications carried out between the multiple tiers of networked stations performed in executing the programs executable on the multiple tiers of networked client-server system. The communication processes take place between Client-1, Server-1, and Server-2 when the application programs are executed in each of these multiple-tier client-server stations are emulated by the communication emulator 220. The development-environment emulator 210 further includes a tier-to-tier data-file compatibility handler, e.g., 230-1, 230-2 and 230-3 for EMU-1 to EMU-3 respectively. The compatibility handler is implemented to process data files generated from each of the multiple tiers of networked stations, e.g., Client-1, Server-1, and Server-2. After the compatibility handler processes the data-files generated by each of these multiple-tier client-server stations, compatible data-file transmissions and receptions with another networked station can be flexibly and conveniently performed [0034 and fig. 2].

(See also 5,892,683 and 5,636,357) and 2003/0025807 [0059].

**USP 6,706, 290** discloses a scalable, reconfigurable memory apparatus for executing a plurality of preprocessing and post-processing functions for the communication and storage of multimedia articles including voice, **\*\*audio\*\***, text, still **\*\*image\*\***, motion **\*\*video\*\***, and animated graphics between **\*\*selective\*\*** multimedia transmitters and **\*\*receivers\*\***, said memory apparatus **\*\*compatible\*\*** with multiple standard or customized coding algorithmic signals including H.261, MPEG, JPEG, EDTV or HDTV, said apparatus comprising: means for definition of a default internal **\*\*file\*\*** **\*\*format\*\*** and size based upon coder processing

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and frame memory system throughput; means for receipt of an external network algorithmic coded signal.....

**McMullen et al. (02033913 SUPPLIER NUMBER: 03291182), from Computers & Electronics, v22, p80(4) published in June, 1984, describes in an article, "Compatibility and portability", that one cannot input an Apple VisiCalc program and data diskettes into your IBM PC and have anything happen. The disk format, operating system, and internal processing chips, are quite different in IBM PCs and Apples.**

Any inquiry concerning this communication from the Examiner should be directed to Jean D. Janvier, whose telephone number is (571) 272-6719. The aforementioned can normally be reached Monday-Thursday from 10:00AM to 6:00 PM EST. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Mr. Eric W. Stamber, can be reached at (571) 272- 6724.

Non-Official- 571-273-6719.

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11/22/09

/J. J./

/Jean Janvier/

Primary Examiner, Art Unit 3688